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7 BLAKE ROBERT FUHRIMAN and  
DP CURTIS TRUCKING  
8

9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF NEVADA  
11

12 ELIZABETH BRACY,

CASE NO.: 2:20-cv-00460

13 Plaintiff,

14 vs.

15 BLAKE ROBERT FUHRIMAN;  
individually; DP CURTIS TRUCKING,  
16 INC., Utah Corporation; DOES I-X,  
inclusive,  
17

Defendants.  
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19  
20 DEFENDANTS BLAKE ROBERT FUHRIMAN AND DP CURTIS TRUCKING, INC.'S  
ANSWER TO PLAINTIFF ELIZABETH BRACY'S COMPLAINT

21 COME NOW, Defendants BLAKE ROBERT FUHRIMAN and DP CURTIS  
22 TRUCKING, INC. ("Defendants"), by and through their counsel, Josh Cole Aicklen, Esq.  
23 and Stephen L. Titzer, Esq. of LEWIS BRISBOIS BISGAARD & SMITH LLP, and answer  
24 Plaintiff ELIZABETH BRACY'S ("Plaintiff") Complaint as follows:

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1           1. Answering Paragraphs 1, 4, 5, 6 and 7 of the Plaintiff's Complaint, these  
2 answering Defendants are without sufficient knowledge or information to form a belief as  
3 to the truth of the allegations of said paragraphs, and on that basis, these answering  
4 Defendants deny each and every allegation set forth therein.

5           2. Answering Paragraphs 2 and 3 of Plaintiff's Complaint, these answering  
6 Defendants admit the allegations set forth therein.

7           3. Answering Paragraphs 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of the  
8 Plaintiff's Complaint, these answering Defendants deny the allegations set forth therein.

9                               **AFFIRMATIVE DEFENSES**

10                              **FIRST AFFIRMATIVE DEFENSE**

11           The Complaint fails to state a claim upon which relief may be granted against  
12 these answering Defendants.

13                              **SECOND AFFIRMATIVE DEFENSE**

14           The damages allegedly suffered by Plaintiff, if any, were proximately caused, or  
15 were contributed to, by reason of the negligence of the Plaintiff and such negligence bars  
16 Plaintiff's claims and/or reduces Plaintiff's recovery against these answering Defendants.

17                              **THIRD AFFIRMATIVE DEFENSE**

18           The damages allegedly suffered by Plaintiff, if any, were caused by the acts or  
19 omissions of other parties over whom these answering Defendants had no control.

20                              **FOURTH AFFIRMATIVE DEFENSE**

21           Plaintiff has failed to mitigate her damages, if any.

22                              **FIFTH AFFIRMATIVE DEFENSE**

23           Plaintiff is estopped from asserting any rights she may have against these  
24 answering Defendants.

25                              **SIXTH AFFIRMATIVE DEFENSE**

26           Plaintiff has waived any rights she may have had against these answering  
27 Defendants.

1 SEVENTH AFFIRMATIVE DEFENSE

2 Plaintiff's claims are barred by the statute of limitations and/or by the doctrine of  
3 laches.

4 EIGHTH AFFIRMATIVE DEFENSE

5 Plaintiff's claims are barred by the doctrine of unclean hands.

6 NINTH AFFIRMATIVE DEFENSE

7 All conduct by Defendants and those acting on their behalf was reasonable under  
8 the circumstances, undertaken in good faith, and not intentional, tortious or unlawful.

9 TENTH AFFIRMATIVE DEFENSE

10 Plaintiff is not a real party in interest and does not have the capacity or standing to  
11 assert the claimed causes of action.

12 ELEVENTH AFFIRMATIVE DEFENSE

13 Plaintiff consented to the actions and physical contact asserted in the Complaint.

14 TWELFTH AFFIRMATIVE DEFENSE

15 Defendants are entitled to indemnity and contribution from any responsible party.

16 THIRTEENTH AFFIRMATIVE DEFENSE

17 Plaintiff is in *pari delicto* as to the events asserted in the Complaint.

18 FOURTEENTH AFFIRMATIVE DEFENSE

19 Plaintiff's claims are barred by the Imminent Peril Doctrine.

20 FIFTEENTH AFFIRMATIVE DEFENSE

21 Plaintiff's claims are barred by the Unavoidable Accident Doctrine.

22 SIXTEENTH AFFIRMATIVE DEFENSE

23 These answering Defendants incorporate by reference those affirmative defenses  
24 enumerated in FRCP 8 as if fully set forth herein for the specific purpose of not waiving  
25 any such defenses. In the event further investigation and/or discovery reveals the  
26 applicability of any such defenses, or any other affirmative defenses, Defendants reserve  
27

1 the right to seek leave of court to amend this answer to specifically assert any such  
2 defenses.

3 PRAYER FOR RELIEF

4 WHEREFORE, Defendants pray for judgment as follows:

- 5 1. That the Court dismiss Plaintiff's Complaint in its entirety with prejudice;  
6 2. That the Court award Defendants their costs and attorneys' fees incurred herein  
7 in the defense of this action; and  
8 3. For such other and further relief as this Court deems just and proper.

9 DATED this \_\_5\_\_ day of March, 2020.

10 Respectfully submitted,

11 LEWIS BRISBOIS BISGAARD & SMITH LLP

12 By /s/ Josh Cole Aicklen

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19 Attorneys for Defendant  
20 BLAKE ROBERT FUHRIMAN and  
21 DP CURTIS TRUCKING  
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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Lewis Brisbois Bisgaard & Smith LLP and that on this   5   day of March, 2020, I served a true copy of the DEFENDANTS BLAKE ROBERT FUHRIMAN AND DP CURTIS TRUCKING, INC.'S ANSWER TO PLAINTIFF ELIZABETH BRACY'S COMPLAINT via electronic service by the U.S. District Court CM/ECF system to the parties with an email-address on record, as follows:

Joshua U. Aldabbagh, Esq. BOLEY & ALDABBAGH, LTD. 1900 E. Bonanza Road Las Vegas, Nevada 89101 Telephone: 702-435-3333 Fax: 702-475-6567 <a href="mailto:joshua@bandafirm.com">joshua@bandafirm.com</a> Attorneys for Plaintiff ELIZABETH BRACY	

By           /s/ Adrina Harris            
An Employee of  
LEWIS BRISBOIS BISGAARD & SMITH LLP